STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6946

Investigation into the existing rates of	)
Central Vermont Public Service Corporation	)

Docket No. 6988

Tariff Filing of Central Vermont Public	)
Service Corporation Requesting an Increase	)
in Rates to be Effective August 29, 2004	)

PREFILED TESTIMONY OF
DEENA L. FRANKEL
ON BEHALF OF THE
VERMONT DEPARTMENT OF PUBLIC SERVICE

October 1, 2004

Summary: The purpose of Ms. Frankel's testimony is to analyze customer service provided by CVPS, to identify a number of customer service problems and concerns about the company's practices related to Board disconnection and deposit rules, and to make recommendations concerning remedies for the identified problems.

Prefiled Testimony
of
Deena L. Frankel

Q. Please state your name and occupation.

A. My name is Deena L. Frankel, and I am the Director for Consumer Affairs & Public Information for the Vermont Department of Public Service ("DPS" or "the Department").

Q. Please state your educational background and professional experience.

A. I attended Florida State University as an undergraduate, majoring in mass communications. I hold a Master of Arts in Conflict Resolution from the McGregor School of Antioch University, and a professional certificate in Mediation and Conflict Resolution from Woodbury College. Prior to coming to Vermont in 1994, I worked for 17 years in Florida and Connecticut at the state and local levels in the fields of consumer and disabilities research and advocacy, organizational development and marketing. Between 1994 and 1997, I owned and operated an organizational development consulting firm based in Montpelier. I have over twenty years of management experience, including grants management, contract supervision and administration in both large and small organizations. From 1996 through 2001, I also served as an adjunct faculty member in the Woodbury College Mediation and Conflict Management Program. I have been the Director of the Division of Consumer Affairs & Public Information for the Department of Public Service since April, 1997.

Q. What are your responsibilities in your current position?

A. I am responsible for administering the Department's Consumer Affairs & Public Information Division ("CAPI"). CAPI is responsible for resolving consumer complaints against regulated utilities and cable companies, advocating for policies which protect consumer interests and educating consumers about utility issues so they can more effectively advocate for themselves. I supervise a staff of four consumer advocates, represent the Department in policy, legislative and public information initiatives related to consumer issues, and carry out the Department's administrative responsibilities with respect to Vermont's Universal Services Fund.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to analyze customer service provided by Central Vermont Public Service ("CVPS" or "the Company"), to identify a number of customer service problems and concerns about the company's practices related to Board disconnection and deposit rules, and to make recommendations concerning remedies for the identified problems.

Q. What representations has the Company made in its direct testimony concerning the quality of its customer service?

A. Company witnesses Gamble, Monder and White discussed CVPS customer service. The representations that I will respond to in my testimony include the following:

- Ms. Gamble describes the Right Way to Work ("RWTW") program through which CVPS has implemented continuous process improvement in the Company and describes the positive results of that program in terms of cost savings and process improvement.
- Mr. Monder's testimony justifies certain costs as necessary to meet the demands of the Service Quality and Reliability Plan ("SQRP").
- Mr. White describes the establishment of the company's SERVE plan, which is their name for the SQRP standards, and how SERVE is being used to "drive customer service performance at CVPS." He describes SERVE and RWTW as "the cornerstone of our overall management strategy."

The focus of my testimony is on the customer service impacts of RWTW and other management issues.

Q. What concerns do you have about these witnesses' testimony?

A. I have several concerns about the Company's representations regarding SERVE and RWTW. First, the company witnesses imply that the adoption of the SQRP standards, along with the addition of potential penalties, has driven the need for the company to focus on achievement of these goals at a cost to ratepayers. While I do not seek to evaluate particular costs the Company seeks to recover, I do dispute the characterization of the SQRP standards as drivers of these costs. The SQRP standards represent a quantified definition of the obligation "to furnish reasonably adequate service, accommodation and facilities to the public" (30 V.S.A. § 219). The obligation to perform at a level consistent with the SQRP standards existed before the adoption of any SQRP; it simply had not been quantified in the manner which the Board has now adopted. If the costs advanced by the company are necessary, it is because they are intrinsic to providing adequate service, not because they are necessary to meet the standards of the SQRP. The obligation to provide service at this level existed before the SQRP was adopted and would continue to exist in the absence of the SQRP.

A second, related concern is the fact ~~the~~ that the Company has adopted the SQRP or SERVE standards as virtually their only benchmarks for measuring customer service. The standards were meant to be a set of general, minimum standards that define "reasonably adequate service, accommodation and facilities." The performance areas in the standards are not meant to be comprehensive, but rather representative of key areas of customer service that are important to customers. In fact, effort went into limiting the number of areas measured to a short list of key indicators. They are not a substitute for a company's internal service quality metrics, nor do they represent a definition of "good" or "excellent" performance. Yet, the Company's testimony clearly indicates that the SERVE standards are its only outcome measures related to customer service.

My third concern with the Company's testimony is the company's assessment of the benefits of RWTW. As I will detail in my testimony, the RWTW program is a laudable effort on CVPS's part to control costs and continually improve work processes. It has, however, had certain unintended negative consequences for the relationship between the Company and its customers. I cannot determine whether these negative consequences are inherent in RWTW or whether they result from an interaction between RWTW and CVPS's culture. Regardless of the cause, RWTW has focused CVPS employees on the bottom line to the exclusion and sometimes the detriment of concerns for their customers' needs and expectations.

Lastly, I am concerned that the program described by the Company – RWTW and SERVE – lack the kind of meaningful customer input that is needed to ensure that the company's process of continuous improvement remains focused on its customers. Other than the surveying required by the SERVE plan, the Company has little or no on-going mechanism for customer input. Customer-focus is largely missing from the language of RWTW. And the data CVPS does derive from customers is being put to very limited use in driving management decision-making. While I do not expect companies to manage by focus group, the marked lack of customer focus in the Company's RWTW seems to represent a virtual absence of customer input and two-way communication.

I have stated my concerns here in summary fashion. The testimony which follows will present evidence to support these concerns.

Q. Are you concerned that CVPS is providing less than adequate service?

No, in general, I believe the company is providing reasonably adequate service according to the metrics of the SQRP. There are also many aspects of RWTW that I believe have produced good results. The purpose of my testimony is to seek improvement in regard to certain specific practices within customer service, to press the company to be more flexible and less legalistic in its dealings with certain kinds of consumer issues, and to listen more effectively to its customers in general.

Q. What led you to conclude that the SQRP metrics are the only yardstick being used by CVPS to measure customer service quality?

A The Company states it "is not formally using any other service quality benchmarks except those established in the SQRP." (DPS:CVPS 4-22.) CVPS does appear to be using a few additional measures associated with RWTW projects. Additional measures are "function backlog," "60-day aging trends as a percentage of billed revenue," "customer deposit balance," and "net charge-offs." Of these, the first has a direct impact on service delivered to the end customer. The remaining items are designed to improve the Company's bottom line through the control of credit and collections, and do not contribute to quality of service in a direct way. As far as I can tell, the SQRP measures and the RWTW measures I have just listed represent all of the metrics management is monitoring to ensure service quality.

Q. Why is it a problem for CVPS to focus exclusively on these measures?

A. I am pleased that CV has taken the SQRP measures so seriously and they have demonstrated positive impacts on their customer service through the use of the metrics. Their use of the metrics demonstrates the principle that what gets measured gets fixed. For example, the Company's metrics under the first SQRP for bill accuracy were set very high – that is they permitted very few inaccuracies. The Company struggled with this measure and, as a result, made improvements in its billing procedures as its strived to meet the baseline.

The Company is doing a good job of keeping its employees focused on the metrics. They are publicizing monthly results through newsletters and run charts posted in the workplace that continually remind staff of performance.

The very fact that the Company has taken the standards so seriously contributes to my concern about the exclusive use of the SQRP metrics. First, the metrics are, as I said earlier, minimum standards. Consequently, when they are used to drive performance,

performance is driven only to that "reasonably adequate" level. The example of the bill accuracy standards I mentioned earlier are a case in point. The baseline for this performance area was so stringent in the first SQRP that the Company was unable to meet the standard in multiple months. In response, the Company made significant improvements in its billing processes in order to drive out every possible inaccuracy that would count toward the baseline. The successor SQRP relaxed the bill inaccuracy in recognition that the original standard had been more of a "stretch goal" than a definition of reasonably adequate performance. Had the original plan contained the looser goal, I doubt whether CVPS would have devoted attention to the improvements in its billing practices because the Company would not regard an area that was making the baseline as a focus of improvement.

The SQRP standards do not reflect an internal assessment by CVPS of its particular performance challenges nor any issues of special importance to its customers. The Company's complete reliance on the SQRP standards reflects a phenomenon I analogize to "teaching to the test." What the state "tests" has now been adopted as the internal definition of good service. In addition, the "goal" for the company is the level established in the SQRP, rather than a higher level of service it may aspire to reach, as other companies have adopted for the purposes of internal metrics.

The Company also seems to have adopted the SQRP standards as a kind of permanent definition of good service that creates some rigidity in its customer service operation. The SQRP standards have been fully incorporated into the evaluation and incentive compensation plan of the company, as well as the annual objectives and the "Vital Few" objectives. The message to employees is clear: the SQRP measures are the target. The degree of institutionalization of the SQRP goals is a two-edged sword. On one hand, it ensures the standards get met. On the other hand, it sends a message that if employees are achieving the objectives then, de facto, the customer service job is done, when in fact there may be many issues on customers minds that the Company does not hear and therefore cannot heed.

Q. What other standards to you think the Company should be monitoring?

A. I would not presume to dictate other standards or appropriate measurement. Those determinations need to be driven by the Company's own processes of assessing its systems and talking to its customers. I can offer some examples, however, which are based on my knowledge of how Green Mountain Power has dealt with the issues I have discussed above.

GMP's metrics demonstrate the kind of responsiveness and flexibility that I believe are hallmarks of a customer service operation dedicated to meaningful improvement. The company is using its SQRP metrics, but has added a number of additional measures. For example, they measure "first call resolution" rates, meaning the frequency with which consumers calling the call center can get their problems resolved in one phone call. As I understand it, this measure was adopted based on customer information that showed a major driver of customer dissatisfaction to be the need for a consumer to make multiple calls to get a problem resolved. This example illustrates a company listening to its customers, ferreting out sources of dissatisfaction, and developing specific action plans to remove them.

Another area where GMP has expanded its metrics beyond the SQRP is outage restoration. In addition to SAIFI and CAIDI, the metrics required by the SQRP, GMP is measuring the time of the outage call, the length of time to arrive at the scene and the amount of time to complete the call. Again, I understand these metrics were adopted based on information from customers about what factors are most likely to cause customer dissatisfaction in their interactions with GMP.

Where CVPS monitors most of its metrics monthly, GMP management gets weekly feedback on its metrics, and the metric "scorecards" are the focus of weekly management meetings.

GMP also "mines" its customer service data system for information about customer interests and concerns. The company reports it classifies customer calls into call types and regularly shares with appropriate departments the root causes of the calls.

These data are then used to develop process changes or other solutions that will reduce the incidence of high frequency consumer calls.

GMP is now instituting a “real time” transaction survey process, in addition to its quarterly survey. Each time a service request is logged or a phone call taken, a survey will be triggered to contact the customer about the interaction. This will ensure that consumers remember their experience at the time they get the survey and GMP gets immediate feedback about the quality of each interaction.

Unlike CVPS, GMP maintains some internal metrics or goals that are tighter than the SQRP targets. For example, GMP’s goal for calls answered in 20 seconds is 85 percent, while the SQRP baseline is 75 percent. GMP’s internal goal for calls abandoned is 3 percent where their SQRP baseline is 5 percent. In GMP's weekly staff meetings the focus is on achieving the internal goal, not the external goal.

Another strength of GMP’s approach is the fact that the issue of service quality is not compartmentalized. The company’s system for working with the service quality metrics crosses departmental lines. Managers talk across functions about each week’s results in recognition of the fact that some metrics, particularly those involving outside jobs such as outage restoration and customer-requested work, require effective interaction among multiple departments.

Although I am sure GMP’s system is not perfect, they appear to excel at focusing performance measurement on goals that force the company to stretch toward excellence, and being able to adjust and incorporate new information gleaned from a constant process of listening to consumer input.

Q. Do CVPS customers say they are satisfied with the Company's service?

A. To the extent that CVPS measures satisfaction the answer to this question is yes. I offer three caveats to that conclusion. First, the measurements are limited in that they don’t look beyond a superficial level of satisfaction. Second, the Company is making less than optimal use of what customer satisfaction data it is gathering. And, finally, information available from consumer complaints suggests that, while the majority is satisfied, those who do have a problem too frequently encounter inflexibility and resistance that makes problem resolution difficult and frustrating. Nothing in CVPS's systems leads the Company to get below the surface of these problem transactions.

I will explain more specifically my concerns about the limitations of the customer satisfaction data. As in the case of the service quality measures discussed earlier, CVPS's customer satisfaction measures are limited to the information the Company is required to collect by its SQRP. The SQRP requires that 80 percent of a representative sample of customers surveyed annually be satisfied or completely satisfied with the Company.

The Company is also required to survey quarterly a representative sample of customers with whom it has interacted during the prior quarter – either through a call to the call center or a visit by a technician for customer-requested work. The transactional satisfaction survey must find on the average that 80 percent of customers are satisfied or completely satisfied.

In general CVPS is meeting the 80 percent baseline on these two metrics. The measure is meaningful for a significant majority of customers and leads me to believe that, in general, CVPS is providing reasonably adequate service in the eyes of its customers.

I was disappointed to learn, however, how little use CVPS is making of its customer satisfaction data. CVPS began surveying prior to the first SQRP. If I understand the chronology correctly, the Company conducted an annual transactional satisfaction survey prior to the initial SQRP, and converted to quarterly transaction surveying in 2001 as required by the initial Plan. The Company appears to have been conducting annual overall satisfaction surveys prior to the first Plan as well. I do not know what use was made of the survey results prior to the present requirements, but I believe that, under the SQRPs, the Company has come to focus largely and perhaps exclusively on whether or not it is making the threshold measure, to the exclusion of other information that could be derived from the surveys.

When I arranged to go to Rutland to look at the surveys, I learned that CVPS could not find the 2002 and 2003 annual survey reports and had to obtain copies from the vendor. In fact, what they obtained was not the analytical report but the raw tables. When I asked why the documents were not readily available I was told the reports had gone to human resources when they were received so they could be used in calculating incentive compensation, which is dependent upon achieving the SQRP metrics. I concluded from this account that the surveys went to human resources and therefore were not available to customer service managers for using in digging below the surface of the baseline measure for other insights the surveys could provide.

I was similarly surprised at how little use is being made of the transactional survey data. CVPS receives only the raw tables from the transactional satisfaction surveys. They are not analyzed by the contractor who does the surveying. The manager of the call center reported to me that he goes through the surveys looking for specific issues they may reveal for individual customers. I found this review laudable. The Company seems to be missing the opportunity, however, to analyze the full range of customer service issues the surveys reveal and share those as widely with managers of all aspects of customer service in the same way the SQRP metrics are shared throughout the Company.

The Company's customer research has been limited to the annual satisfaction survey, the quarterly transaction survey, and a survey of commercial and industrial customers that has been done twice in 2001 and 2004, and a "work request customer survey" in 2004. It does not appear that the company makes any use of focus groups or other qualitative measures to understand customer feedback in any depth.

The survey data reveals what percentage of customers are satisfied. It does not shed light on the concerns and opinions of those customers who are not satisfied. CVPS seems to be doing little to learn more about these customers. Data from consumer complaints can be helpful in exploring this question, since it reflects the views of consumers who are not only dissatisfied, but also unable to resolve their problems directly with the Company. A look at complaints shows that total CVPS complaints rose in 2003 after holding steady the previous two years. Annualized data from the first half of 2004 shows the upward trend continuing moderately. The following chart shows a comparison of complaint rates per 1000 customer for CVPS and the next four largest utilities (excluding Citizens which is now a part of VEC).

Complaint rates per 1000 customers for the five largest electric utilities.*

	2001	***2002***	***2003***	***2004 annualized****
CVPS	1.75	1.73	2.43	2.49
GMP	3.90	2.86	2.18	2.25
BED	.72	.81	.61	1.02
VEC	1.32	3.62	3.03	4.12***
WEC	3.32	1.51	2.58	2.06

*Includes both "escalations" and "grievances." These two figures together reflect consumer dissatisfaction but draw no conclusions about whether the companies' actions were appropriate in the individual cases.
**January-June data times two.
***A portion of the complaints reflected in this annualized figure were recorded after the acquisition of Citizens by VEC. Thus the number is misleading because it is calculated based on the original VEC customer base only.

The chart supports a trend that CAPI staff has noted in resolving CVPS complaints. DPS generally will not handle a consumer complaint unless and until the consumer has attempted to resolve the matter directly with the utility. Complaints to CAPI cannot be used to determine the scale of a particular consumer issue for a utility because a utility may have a serious problem, but if it resolves that problem directly with the consumer, the consumer will never need to call the Department. In the case of CVPS, there has been a sense in the past two years of increasing inflexibility that has caused a growing number of consumers to contact the Department for intervention. In particular, call volume is up in the areas of payment arrangements, deposits, disconnections, service orders, and repair.

Q. How has RWTW affected CVPS's customer service?

A. The information I have available to answer this question permits me to make some observations about how RWTW has affected customer service. To answer the question more conclusively I believe would require evaluation of CVPS's customer service operation by a customer service consultant with the time and scope of work to look in greater depth than I have done in this rate case. My observations, however, lead me to recommend that such an evaluation be conducted, as I will discuss later in my testimony. With that caveat, I will describe my observations about RWTW and the Company's customer service operation.

The focus of RWTW is on driving out waste. In fact, the program was originally called "war on waste." The word "waste" has a specific meaning in the context of the program: "the difference between the way things are now and the way they could or should be if everything were perfect" (CVPS document, "Values in Action," July 16, 2001). In other words, the concept is not meant to be defined exclusively in financial terms. My observation, however, is that RWTW has created or reinforced a culture within CVPS that is focused very sharply on the financial bottom line.

The impetus for RWTW is laudable. Bob Young's Second Quarter 2001 Employee Quarterly Update, early in the development of RWTW, talked about the reasons for the program. He highlighted the "need to improve, from a financial and operating standpoint," and the fact that shareholders expect improved financial performance while customers expect improved service without increased costs. At that time, a key focus was also doing more with less to avoid the need for rate increases, which the Company said it would not seek until 2006.

The drive to control costs while maintaining or enhancing performance is obviously a positive commitment. Nevertheless, the effort to control costs has the potential to result in diminished customer service if cost-cutting comes at the expense of resources necessary to maintain quality. Indeed, this risk is one of the main reasons for having an SQRP. The existence of performance standards, particularly ones that are based on historical performance, is one way of ensuring that service deterioration does not occur as a consequence of belt-tightening pressure. The design of the RWTW program recognizes this dynamic by including the SQRP standards as one of the primary focuses of its performance measurement. The SQRP should create a disincentive, for example, to cut call center staff as a cost-saving measure, since it would at some point become difficult to make the baselines.

Although I applaud the inclusion of the SQRP standards as a part of CVPS's RWTW metrics, I return again to the point made earlier that the standards have been included exactly as adopted by the PSB. The consequence is that the focus of performance measurement is on meeting minimum standards, not on defining excellent performance. In fact, if the Company's historical performance is better than the SQRP baselines, the result of using the baselines as a major focus of RWTW could even be the deterioration of performance from historical levels to minimum standards.

A second concern about the impact of RWTW on customer service is that it appears to lack a focus on customers. Rather, the program's language and publications almost never talk about customers and focus instead on internal processes. While the focus on internal process is not a surprise in a program devoted to continuous process improvement, I believe that unless customer focus is kept front and center the danger is great that employees will see a continuous process improvement program as being about money rather than service.

I will provide a number of examples of what I mean by my sense that the language and communication of RWTW lacks customer focus.

- Eleven metrics are used to evaluate the Customer Information Center (CIC) in the incentive compensation program. In addition to the SQRP standards, four measures concern customer service. (Exhibit CVPS-JFG-14, page 5) All four of those measures – reduce collection costs, reduce the costs for customer inquiry, reduce billing costs, and decrease charge-off dollars – concern costs savings for CVPS arguably without an improved customer experience as part of the goal. In fact, not one deals directly or explicitly with the improvement of the customers' experience with the company.
- The Company states it "generally does not pursue direct customer input in the

design or implementation of RWTW initiatives." Moreover, the sole means by which the impact on customers is evaluated is limited to the quarterly transaction surveys and the annual satisfaction surveys required under the SQRP. (IR DPS:CVPS 4-33). I have noted earlier the limited use being made of the data from those surveys.

- Weekly employee newsletters appear to be an important communication tool in RWTW . A content analysis of the newsletters from 2003 and 2004 year to date shows how extensively this device is used to communicate about progress toward goals. For example, the SERVE results are published monthly in the newsletter. Missing however is a focus on specific customer concerns and issues. In the period of about a year and a half I reviewed, I did not find one article dealing directly with customers or the impact of CVPS services on customers. (There were several articles dealing with charitable and community service efforts of employees. Two others talked about customer service week and a potential award for the CIC without actually talking about customers.)

The last point I want to make about the impact of RWTW on customer service concerns its effect on low income consumers. Consumer complaint trends – the specific details of the complaints as well as the increase in complaints related to deposits, arrangements and disconnections – have suggested to me and my staff that CIC employees are feeling the pressure to improve the bottom line and that this sometimes comes at the expense of the company's most vulnerable customers. Explicitly the company has sought to increase the taking of deposits. Deposits are a barrier to essential utility service for many low income customers. The increased reliance on deposits can have a highly detrimental impact on this group.

Less explicitly, CIC staff seem to have become much less flexible in reaching reasonable payment arrangements. Consumers tell DPS that Company representatives apply what consumers experience as pressure for up-front payments in circumstances where the rules do not allow the company to require such payments (e.g., to establish a budget plan). Other customers are not able to obtain payment arrangement terms that DPS believes are "reasonable" under the definition in PSB Rule 3.302(G). In most instances the Company states that its policy is consistent with the rule, the pattern emerging from consumer complaints suggests the policy and the practice are inconsistent. I am deeply concerned customer service personnel have concluded from Company communication about RWTW that they will be rewarded for wringing every possible dollar out of consumer transactions, even with vulnerable customers whose access to utility service is threatened by overly rigid credit and collection policies.

In closing this discussion, I offer one further observation. In a competitive industry, there is a built-in correction for a company that lacks focus on customer interests and needs. The bottom line should reflect customer dissatisfaction in the form of reduced profits. A monopoly business providing an essential service is missing the feedback mechanisms that exist with competition. Customers can't vote with their feet or their pocketbooks. CVPS has adopted an approach to process improvement that comes from competitive industry. There is nothing inherently wrong with the model. The Company seems, however, to have adopted this model without building in a strong customer focus to its culture. CV is doing a reasonably good job for the majority of its customers. But I believe its lack of listening to customers stands in the way of assuring the best possible service for those customers whose needs fall out of the routine and for its most vulnerable customers.

Q. Do you have any other concerns about the Company's flexibility in dealing with customer complaints?

A. Yes, I am concerned about several cases that have gone unresolved through the informal process between DPS and CVPS resulting in consumer complaints to the Board. These examples reflect a legalistic and rigid approach by the Company that makes it impossible to reach reasonable resolutions without the Board's intervention. The following examples illustrate my point.

Docket 6744 concerned a consumer, Lance Polya, who disputed a usage spike during a period in which his house was unoccupied. The consumer presented a case which was persuasive enough for the hearing officer to recommend a compromise between CVPS and Mr. Polya, resulting in an order for the parties to split the difference, requiring CVPS to credit less than $50 of Mr. Polya's charges. CAPI had attempted informal resolution of this case unsuccessfully. Instead of reaching a compromise with the consumer, the Company chose to spend significantly more than $50 of staff resources and time to litigate the case before the Board. I regard CVPS's intransigence in this instance as a false economy.

Docket 6894, *Petition of Corinne Wiseman v. Central Vermont Public Service Corporation in re: dispute concerning budget plan payment arrangements*, concerned a consumer who was on the budget plan and on automatic withdrawal of payments from her checking account. CVPS deducted the annual true-up of her budget plan from her checking account causing her account to be overdrawn. She alleged that CVPS had not provided her adequate notice that a much larger than expected payment would be deducted. She sought $23 of relief to reimburse her for the bank overdraft charges and an $8 fee charged by CVPS. The Company refused Ms. Wiseman's attempt to resolve the matter directly. It then refused to reach informal resolution when CAPI intervened. Finally, Ms. Wiseman went to the Board which held an evidentiary hearing. Only after the hearing did CVPS agree to pay Ms. Wiseman the $23 and to enter into a Memorandum of Understanding ("MOU") with DPS concerning the budget billing and auto withdrawal issues raised by the case.

Another consumer recently went to the Board after being unsuccessful in resolving a tariff dispute first on his own, and then with CAPI assistance. The facts of this case are similar to others DPS has received. The consumer built a free-standing garage for his home. The electrician advised him that construction would be more economical if he metered it separately rather than wiring into the house. When the consumer asked CVPS to energize the garage, the Company informed him he would be on the general service rather than the residential rate. The Company refuses to put consumers in these circumstances on the residential rate where the garage is metered separately from the house. DPS does not believe this is a requirement of CVPS's tariff but rather a choice by the Company to interpret the tariff in a certain way. DPS's position is that, where two different tariff provisions may apply, the choice of which to apply should be made in favor of the consumer. CVPS has taken the opposite position in these cases. The result in at least one case is that the consumer has had to request a hearing before the Board. It is within the Company's power to resolve this matter without Board involvement.

Another example involves a medium size business of about 90 employees that was struggling with "growing pains." They were seeking flexibility from CVPS to make a payment arrangement that would prevent disconnection, which would have shut down business for more than a day because of the time it would take to bring the company's compressors on line. PSB Rule 3.400 does not require utilities to make payment arrangements with businesses but it also does not prohibit them from doing so. In this case, the business was offering a reasonable work out of their past due amounts and the Company was holding a deposit of more than twice the arrears. However, CVPS chose to stick to its rights under the rule to refuse a payment arrangement. Their refusal was certainly within the rules, but reflected the kind of inflexible application of the rules that is of concern to the Department.

In another example, the Company refused a particular line extension request from a consumer because they thought the design was less than optimal, even though CVPS admits that the consumer's preferred design does not violate any tariff or standard to which CVPS is subject. The Company refused the consumer's request for service in the configuration in question rather than agreeing to the line extensions with provisions that would protect the Company and the consumer. This case also has gone to the Board.

These examples reflect the kind of legalistic response DPS gets too often from CVPS. The question does not seem to be "how can we accommodate what the consumer wants," so much as "this is our interpretation of the rule and we are sticking to it regardless of the consumer's interests." In those instances where what the consumer wants is clearly contrary to PSB Rules or the Company's tariff, DPS consistently supports the Company in its response to consumers. Where there is room for interpretation, however, I am concerned that the Company errs on the side of inflexibility, often to the detriment of the consumer, and ultimately at some cost to CVPS and all ratepayers when cases must go to the Board for resolution.

In talking with CVPS personnel, I have a sense of what has caused the inflexibility I have described. There has apparently been some direction from legal staff that limits the ability of customer service personnel to use judgment in making compromises. I can understand and support the Company's desire to avoid violating Board rules and state law. Whatever directive governs customer service decision-making, however, is a producing a perverse result that harms consumers and should be reevaluated by the Company.

Q. You have raised a variety of issues concerning CVPS's customer relations. Do you have specific recommendations for how to address the issues you have raised?

A. Yes. I recommend that the Board require the Company to contract for a customer service audit with a management consultant specializing in customer relations. The audit should be contracted pursuant to a request for proposal developed in collaboration with DPS, with any dispute about the focus and scope of the audit to be resolved by the Board. The audit should be designed to evaluate in further detail the questions I have raised. In particular the audit should address:

- The degree to which the culture of CVPS is customer-centered.
- The effectiveness of CVPS's mechanisms for gathering and incorporating customer input.
- The system of performance metrics, whether it provides managers with an appropriate level of detail about performance, and whether the data is being used effectively.
- The effectiveness of CVPS systems of interdepartmental communication for solving systemic customer relations problems.
- The effect of RWTW on customer relations and whether the Company has built adequate

customer focus into the program.

- The quality of CVPS's customer service in general, and in handling of exceptional circumstances that fall outside routine, day-to-day matters.
- CVPS credit and collections practices, their consistency with PSB rules, the impact of RWTW on credit and collections, and the impact of these issues on low income customers. (I will discuss this set of issues in the section below.)

Q. Do you have specific concerns about CVPS's practices in the area of credit and collections?

A. Yes, I believe the company has become less flexible in the area of credit and collections, in part as a result of particular RWTW projects and the general cultural climate of pressure on consumer service representatives to improve the bottom line.

While it is appropriate for the Company to take steps to collect all revenue owed to it in a timely manner, Board policy and longstanding utility regulation recognizes electricity as an essential service provided by a monopoly. Virtually all states provide protection for consumers who have payment difficulties. These policies may have the impact of creating some level of arrears and uncollectibles, but they are accepted as necessary costs in light of the essential quality of the service.

Moreover, researchers in the field of utility consumer advocacy have demonstrated in recent years that flexible payment policies and practices are not incompatible with utility interests in maximizing revenue collection. Rather, if a utility can "mine" consumer payment practices so that, to the maximum extent feasible, payment arrangements conform to consumer income patterns, rather than conflicting with those patterns, consumers are more likely to be able to adhere to those arrangements. It is, in fact, in the interest of companies to keep consumers connected to the system even if they can only reduce arrearages very slowly as a connected customer paying current charges and small monthly arrearage reduction results in more revenue to the company than a person who is disconnected and pays nothing new and nothing toward the old bill.

Consumer complaints to DPS indicate that CVPS's practices have become increasingly rigid toward payment-troubled customers. The specific concerns I would like to address include:

- Payment arrangement inflexibility and attempts to obtain maximum payments rather than making an arrangement the consumer can keep.
- Inflexibility about payments within the disconnection window.
- Attempts to obtain payment of arrears before placing a consumer on a budget plan with a concurrent arrangement.
- Payments in full of amounts due from former customers as condition of service.
- Medical note issues.
- Lack of data maintained by the company to evaluate the quality of its payment arrangements.

Q. What is your concern with regard to payment arrangement inflexibility and attempts to obtain maximum payments?

A. DPS has noted an increasing trend of CVPS seeking the maximum possible amount in payment arrangements to avoid disconnection, regardless of the consumer's ability to pay. For example, case number 119264[1], the consumer had received a disconnection notice and contacted CVPS to make a payment arrangement. The Company asked the consumer for $160 – one half the arrears – before the first possible disconnection date. The consumer offered $100 on the first day of possible disconnection and the balance of the $160 before the last possible day of disconnection listed on the disconnect notice. The Company refused this arrangement, demanding the full $160 before the first possible day of disconnection, and the consumer called DPS for assistance. Ultimately, DPS was able to negotiate an acceptable arrangement along the lines the customer had sought.

The problem with CVPS's practice in this case, and others showing the same

[1]Case numbers refer to cases in the Consumer Affairs Tracking System ("CATS") maintained by CAPI.

pattern, was the inflexible insistence on one half the arrears up front (prior to the first day of the disconnection window), which the consumer could not pay, when the consumer was offering a reasonable alternative agreement he could fulfill. Even after CVPS had agreed to an arrangement negotiated by DPS, the consumer was told again (contrary to the discussion with DPS) that he had to pay half the arrears before the first possible disconnection day to keep the lights on.

The pattern of this case and others like it is that CVPS seems to be treating one-half the delinquent balance as a default amount necessary to prevent disconnection and make a payment arrangement. The rules governing payment arrangements do not contain a default of one-half the delinquent balance, yet DPS has heard from consumers that the Company pressures them to pay this amount. CVPS claims it does not engage in this practice, but consumer complaints suggest otherwise.

A reasonable payment arrangement must "consider the income and income schedule of the customer, if offered by the customer, the customer's payment history, the size of the arrearage and current bill, the amount of time and reason for the outstanding bill and whether the delinquency was caused by unforseen circumstances." (PSB Rule 3.302(G), Establishment of a Reasonable Payment Arrangement.) Nowhere does this rule establish a minimum initial payment toward the arrears, and, in fact, a minimum payment would be inconsistent with the rule's requirement to consider the individual's circumstances. Only in the context of a person who is already disconnected does the rule specify that the utility *may* require one-half of the delinquent bill *"or a lesser negotiated amount"* (PSB Rule 3.307(B) emphasis added.)

Q. What remedy do you recommend to address the problem you have raised?

A. I ask the Board to clarify that the rule defining "reasonable payment arrangement" does not provide for a default amount of up-front payment and does require the utility to take the individual's ability to pay into consideration in determining the amount and schedule of payments. I recommend further that the Company be required to sensitize its customer service personnel to the issue of reasonableness in the negotiation of arrangements.

Finally, I recommend that the customer service audit discussed in earlier testimony include a specific audit of Company practices and outcomes with regard to payment arrangements and other aspects of credit and collections. Such an audit is essential in order to understand fully the scope of the problem. Consumer complaints can tell us that a problem exists, and even if that problem reflects a pattern of practice, but they do not permit an assessment of how widespread the practice may be. Only a systematic assessment can ultimately determine the seriousness of the problem.

In light of the issues I have discussed above and those which follow, I am concerned about the lack of information collected by the Company to evaluate its payment arrangement practices. I should note that CV does not have an excessive disconnection rate. Of the five largest electric utilities in Vermont, CVPS's is next to the lowest. The five companies' rates of disconnection per 1000 residential customers in 2003 were as follows:

Washington Electric	11.6
CVPS	29.9
Vermont Electric Coop	39.7
Green Mountain Power	41.2
Burlington Electric	50.9

Although CVPS's disconnection rate is favorable, it did rise significantly in 2003 from 20.6 to 29.9. I should also note that many demographic factors influence disconnection rates and so comparison across companies is not especially useful. For example, BED has a very low rate of complaints to DPS and a high level of customer satisfaction. Yet they have by far the highest disconnection rate among the large utilities. They account for this fact by the large student population in their service territory.

Despite CVPS's relatively low rate of disconnections, the upward trend in payment-related complaints and disconnections is of concern to me when combined with the other issues I have raised in this testimony. At present CVPS does not maintain data that allow it to analyze payment arrangement practices. I recommend that CVPS institute some metrics to gain a better understanding of its treatment of payment-troubled customers. In particular, the company should be required to track details concerning payment arrangement such as: the amount of up-front payment required; whether the budget plan was offered as required by PSB rules; and whether the arrangement was successful. I suggest that the design of these metrics be undertaken following consultation with DPS and Community Action Program representatives who work with low income consumers to ensure that the data will address the most important factors related to these consumers' needs. These metrics can then be incorporated into the evaluation of the credit and collections practices of CVPS I earlier recommended.

Q. What are your concerns about CVPS's inflexibility concerning payments within the disconnection window?

A. This problem involves consumers who indicate they are able to pay within the possible dates of disconnection, but not by the first day. In these cases, an agreement by CVPS to forestall disconnection until late in the disconnection window will not prevent the Company from disconnecting if the consumer doesn't keep his or her commitment, since the disconnection window is still open. Case 106038 (as well as the case discussed in the previous issue) illustrates this problem. In this case, the consumer contacted CVPS to make a payment arrangement in response to a disconnection notice. The notice required the consumer to pay $253 by June 25 to avoid disconnection. The consumer offered to pay the $253 on July 1. The last possible day for disconnection on the notice was July 7. The Company refused the consumer's offer of a payment date, and agreed only upon DPS intervention.

In at least some of these cases, I believe the Company is violating the reasonable repayment arrangement rule, in that CVPS is rejecting an offer of a reasonable plan that still leaves protection for the Company. In any case, where the interests of the Company are protected and the consumer is making a reasonable offer, a rigid determination that only a payment *prior to* the first day of the disconnect window will forestall disconnection serves neither the interests of the Company nor the interests of the consumer.

Q. What is your recommendation to address this issue?

A. The audit of credit and collections practices I earlier recommended should include an assessment of the issue I have raised here.

Q. What are your concerns about CVPS's attempts to collect portion of the arrearage before setting up budget billing with a concurrent arrangement?

A. In some cases, CVPS appears to be refusing to place consumers on budget billing with a concurrent payment arrangement for their arrears unless consumers make an up-front payment toward the arrears. This practice is inconsistent with PSB Rule 3.302(D), Budget Billing Plans, which gives every consumer the right to go on budget billing with an extended repayment arrangement for their arrears. Case 119495 illustrates this practice. In this case, the consumer had a pending disconnection for a nearly insurmountable arrearage of nearly $550. No viable alternatives were offered to the consumer by CVPS, so the consumer called DPS for assistance in finding funds. In the course of investigation, DPS asked the Company about the option of putting the consumer on the budget plan. The rep told CAPI that CV would want to see payment toward the delinquent amount before setting the consumer up on the budget plan because the consumer's payment history showed she couldn't handle the budget billing amount plus the concurrent arrangement.

There were three problems with CVPS's response in this case. First, the Company's unilateral decision not to offer the budget plan[2] deprived them of the chance to learn new and relevant information about changes in the consumer's circumstances.

[2] The Company complied with the rule requiring them to offer budget billing by offering it in an earlier interaction the same year. They may not have been legally obligated to offer it again, but might have discovered some critical information if they had.

Second, the requirement to obtain an up-front payment from the consumer is inconsistent with the budget billing rule. And, third, it is not up to the Company to decide whether or not a consumer can handle budget billing; it is up to the company to provide information about budget billing that will enable the consumer to make a good decision about her own best interest.

Q. What remedies do you recommend?

A. Again, the audit of credit and collections practices I earlier recommended should include an assessment of the issue I have raised here.

Q. What is your concern about CVPS requiring payments in full of amounts due from former customers as condition of service?

A. CVPS requires that former customers who left the system owing money to CVPS must pay the amount owed in full before they can establish new accounts. (IR DPS:CVPS 4-49.) DPS is aware that this is a common practice of the utilities. In a recent consumer complaint case, Vermont Legal Aid challenged this practice as being inconsistent with PSB rules. DPS has since considered Legal Aid's arguments and concludes that Legal Aid's objection is well founded.

Utilities have an obligation to serve all customers. Nothing in Vermont's rules permits a utility to deny service on the basis of a bill from a former account. In the absence of a rule allowing a utility to deny service under such circumstance, a utility must have an approved tariff provision to cover such a practice, since such a practice constitutes a significant term or condition of service. CVPS has no such tariff provision. We believe, therefore, that the Company cannot condition service upon the payment of the old debt.

This issue has been addressed extensively in legal proceedings concerning credit, collections and deposits. The National Consumer Law Center (NCLC) Access to Utility Service, Second Edition[3] (Exhibit DPS-DLF-1) summarizes the legal background of the denial of utility

[3]National Consumer Law Center, Access to Utility Service, Second Edition, Boston, MA,

service based on debt from another account:

> Court decisions, as well as state utility regulations are generally in accord in holding that a public utility cannot refuse to render the service which is authorized by its charter to furnish, or impose service constraints, because of some collateral matter unrelated to that service....
>
> ...The common law rule forbids utilities to coerce payment of separate and unrelated obligations by threatening to withhold the necessities of life from the prospective customer. Utilities must use the judicial process, as any other creditor would, to settle a dispute, and may not exploit their control over a necessity to punish the consumer for not acceding to their one-sided demands....
>
> A utility, as a general rule, may not refuse to provide service based on a dispute arising out of a contract separate from the contract to provide the particular service in question. This question often arises when a utility denies service to a customer based on an old debut, such as an old utility bill from a prior residence, or a completely unrelated debt. At common law, a utility could not refuse to enter into a new contract for service because of an old debt, disputed or not, from some other place and time.

The NCLC analysis goes on to state that many state commissions – at least 30 – have modified this common law principle to allow under some circumstances utilities to deny service or require a deposit on the basis of an old debt. Vermont rules are silent on the point.

The Company contends it cannot disconnect for a debt which is older than two years and so it must collect the funds as a condition of obtaining service. I disagree with this argument. As suggested in the excerpt above, utilities have access to the very same methods of collections as other creditors who cannot rely upon the control of a necessity to collect their debts.

Although utilities have other methods of collections available for old debts, I am sympathetic to the Company's interest in facilitating the collection of receivables since the cost of uncollectibles is shared by all ratepayers. The Department would be willing to

---

2001, pp. 56-57. (Footnotes provided in Exhibit.)

work with CVPS on a tariff amendment that permitted the Company to seek to collect the old debt, provided payment of the debt could not be used as a barrier to establishing a new account and payment arrangements are offered. We would like the opportunity to look at models in use in other states and to find an optimal balance between the interests of the utility in collecting the debt and removal of barriers to essential service for the consumer.

Q. What action do you seek from the Board concerning the practice you have outlined?

A. I ask that the Board rule that, absent an approved tariff covering the practice, CVPS cannot require payment of a past debt as a condition of establishing a new account. The Board should require that the Company, if it wants to reinstitute this practice, must work with the Department to develop a policy to submit to the Board for tariff approval. If the parties cannot agree, the Company would of course be free to submit its preferred policy, over the DPS's objection, and the Board can resolve the dispute.

Q. What is your concern regarding CVPS's refusal to accept a medical note signed by a physician's assistant or a nurse practitioner?

A. This is an issue where CVPS's practices are consistent with the rule, but the rule is outdated. PSB Rule 3.301(D) defines a "physician's certificate" as a "written statement by a duly licensed physician certifying that a ratepayer or resident within the ratepayer's household would suffer an immediate and serious health hazard by the disconnection of the company's service, or by the failure to reconnect service, to that household." CVPS adheres to the letter of this rule, and rejects notes signed by physicians' assistants (PAs) and nurse practitioners (RNPs). In recent years, PAs and RNPs have become accepted and even encouraged by the insurance industry as primary care providers. They are authorized in Vermont to diagnose and prescribe and many consumers, including myself, only see a physician in the event a referral beyond primary care is necessary. Requiring a person whose primary care provider is a PA or an RNP to get a certificate signed by a physician is an unreasonable and unnecessary hardship.

I urge the Board to clarify PSB Rule 3.301(D) to explicitly allow utilities to accept medical notes that otherwise conform to the rule but are signed by PAs and RNPs. It seems that utilities can and should voluntarily accept such certificates since the rules define the floor of consumers' rights. The utility can go beyond what the rule requires. However, clear direction from the Board on this point will assist in conforming to widespread change in how primary care is provided.

Q. Does that conclude your testimony?

A. Yes it does.